

**SUPPLEMENTAL EXPERT AFFIDAVIT OF
STEPHEN ANSOLABEHERE**

I. Background and Qualifications

1. I am a professor of Government in the Department of Government at Harvard University in Cambridge, MA. My expertise lies in the study of elections, particularly voting behavior and election procedures and laws. I have worked and published extensively on redistricting and voting rights matters. I am consultant for the Rodriguez plaintiffs in *Perez v. Perry*, currently before the District Court in the Western District of Texas, and in *United States v. State of Texas*, currently before the District Court in the District of Columbia; I consulted for the Guy plaintiffs in *Guy v. Miller* in Nevada state court. Further information on my background and qualifications are detailed in my expert affidavit of March 2, 2012.
2. I have been hired by the Rose Intervenors to analyze the proposed Congressional plans. I am retained for a rate of \$400 per hour, which is my standard consulting rate.

II. Sources of Information

3. I rely on data provided to me by NCEC, a firm specializing in election data. These data are compiled from the official election reports of County and Municipal election offices in the state of New York. They provide the

Presidential vote for Democrats and Republicans in 2008 and 2004, as well as the average percent of the two-party vote for Democrats across statewide offices.

4. I rely on Census data provided by the U. S. Census Bureau, especially American Fact Finder, available through www.census.gov.

III. Partisan Effects of Plans Proposed

5. As put forth in my initial affidavit, an appropriate standard for judging partisan consequences of a map is to measure the partisan bias and partisan balance. Ideally, in an election in which the two major parties each win 50 percent of the vote, they each win 50 percent of the seats. The ideal balance between the parties is achieved when there are as many seats in which Democrats' shares of the vote exceeds their statewide vote share as there are seats in which they win shares of the vote less than their share of the statewide vote, and similarly for Republicans.

6. My initial report attests to the partisan effects of the Skelos and Kolb plans. Here I provide analysis of the General Assembly Majority plan, the plan proposed by the Rose Intervenors, and the Common Cause plan.

7. I use the Obama and McCain vote in 2008 as a reference election for analyzing the partisan effects of plans. Obama received 62.2% of all votes for President statewide in 2008; McCain received 36.7%. Obama's vote

percent exceeded McCain's by 25.5 percentage points statewide. In terms of the two-party vote—all votes for Democrats or Republicans for President—Obama won 62.9% of the two-party vote statewide and McCain won 37.1%. One might also use other statewide elections, such as the 2004 Presidential election or the average of all statewide races, to evaluate the plans. Doing so leads to similar conclusions, and I will present just the results using the 2008 Presidential election here.

8. Under the plan proposed by the Rose Intervenors, there are 14 Congressional Districts in which Obama's share of the vote is below his statewide vote share, and there are 13 Congressional Districts that are above his statewide vote share. Similarly, there are 14 districts in which McCain's vote share exceeds his statewide vote share and 13 in which his vote share is below his statewide vote share.

9. Under the plan proposed by the General Assembly Majority, there are 15 Congressional Districts in which Obama's share of the vote is below his statewide vote share, and 12 Congressional Districts in which Obama's shares of the vote are at or above his statewide vote share.

10. Under the plan proposed by Common Cause, there are 15 districts in which Obama's share of the vote is below his statewide vote share, and there are 12 districts in which Obama's shares of the vote are at or above his

statewide vote share.

11. Using a standard methodology called uniform swing analysis, I computed what percent of New York's Congressional seats Republicans and Democrats would be expected to win if the statewide vote was divided evenly between the parties, i.e., if Obama received 50 percent of the votes and McCain received 50 percent of the votes. This amounts to subtracting 12.9 percentage points from Obama's vote share and adding 12.9 percentage points to McCain's vote share in each district, and then calculating the percent of seats in which Obama would have won more votes than McCain. The bias is the deviation of that percent of the seats from 50, because under majority rule we would expect the parties to each win 50 percent of the seats in an election when they win 50 percent of the vote.

12. Under the Rose plan, the partisan bias is 2 points in the Republicans' favor. The Republicans are expected to win 51.9 percent of seats when the two parties each win 50 percent of the vote, for a pro-Republican bias of 2 points. Because there are an odd number of seats, it is not possible to reduce the bias below this level unless one district has a vote share exactly equal to the statewide average. The amount of bias in the Rose Plan, then, seems unavoidable.

13. Under the General Assembly Majority plan, Republicans are expected to

win 55.6 percent of the seats in a 50-50 election, for a pro-Republican bias of 6 points.

14. Under the Common Cause plan, Republicans are expected to win 55.6 percent of the seats in a 50-50 election, for a pro-Republican bias of 6 points.

15. I calculate the percent of the votes statewide at which a party would win a majority (14 of 27) of seats. Under the Rose plan, Republicans would win at least 14 of 27 CDs if they won at least 47 percent of the vote statewide, and Democrats need to win at least 53 percent of votes statewide to win at least 14 of 27 CDs. Under the General Assembly Majority plan, Republicans would win 14 of 27 CDs if they won 46 percent of the vote statewide, and Democrats need to win 54 percent of votes statewide to win 14 of 27 CDs. Under the Common Cause plan, Republicans would win 14 of 27 CDs if they won 46 percent of the vote statewide, and Democrats need to win 54 percent of votes statewide to win 14 of 27 CDs.

16. I conclude that the plan of the Rose Intervenors has no substantial bias for or against either of the parties, and less partisan bias and better partisan balance than the General Assembly Majority Plan, the Common Cause Plan, the Skelos Plan, and the Kolb Plan.

Under penalty of perjury, the information in this affidavit is true and correct.

Signed at Newton, Massachusetts on the date below.

Date: March 4, 2012

A handwritten signature in black ink, appearing to read "Stephen Ansolabehere", written over a horizontal line.

Stephen Ansolabehere